

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALESSANDRO MASI,

Plaintiff,

- against -

DANIEL J. EDELMAN HOLDINGS, INC.

Defendant.

Docket No. 1:18-cv-8229

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Alessandro Masi (“Masi” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Daniel J. Edelman Holdings, Inc. (“Edelman Holdings” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act and for the removal and/or alteration of copyright management information under Section 1202(b) of the Digital Millennium Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of an award-winning photograph of a young girl name Poonam reveling in the rain in India, owned and registered by Masi, a professional photographer. Accordingly, Masi seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Masi is an award-winning professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 6 Balmoral Road, London, England NW25DY United Kingdom.

6. Upon information and belief, Edelman Holdings is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 250 Hudson Street 16th Floor, New York, NY 10013. Upon information and belief Edelman Holdings is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Edelman Holdings has owned and operated a website at the URL: <https://www.edelman.com> (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Masi photographed a young girl name Poonam reveling in the rain in India (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Masi is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 1-925-877 and titled “Poonam revelling in the rain in Bhopal, India.” See Exhibit B.

#### **B. Defendant’s Infringing Activities**

10. Edelman Holdings ran an article on the Website titled *What's Your Purpose? Purpose and the Brazilian market*. See URL <https://edelman.com.br/conhecimentos/artigos/> . The Photograph was also posted on a slideshow listed under the same account. See URL: <https://www.slideshare.net/EdelmanInsights/global-deck-2012-edelman-goodpurpose-study>. The article and slideshow both prominently featured the Photograph. A screen shot of the Photograph on the article and slideshow are attached hereto as Exhibit C.

11. Edelman Holdings did not license the Photograph from Plaintiff for its article, nor did Edelman Holdings have Plaintiff's permission or consent to publish the Photograph on its Website.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Edelman Holdings infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Edelman Holdings is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**SECOND CLAIM FOR RELIEF**  
**INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST**  
**DEFENDANT**  
**(17 U.S.C. § 1202)**

17. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-17 above.

18. Upon information and belief, intentionally and knowingly removed copyright management information identifying Plaintiff as the photographer of the Photograph.

19. The conduct of Edelman Holdings violates 17 U.S.C. § 1202(b).

20. Upon information and belief, Edelman Holdings falsification, removal and/or alteration of the aforementioned copyright management information was made without the knowledge or consent of Plaintiff.

21. Upon information and belief, the falsification, alteration and/or removal of said copyright management information was made by Edelman Holdings intentionally, knowingly and with the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyright in the Photograph. Edelman Holdings also knew, or should have known, that such falsification, alteration and/or removal of said copyright management information would induce, enable, facilitate, or conceal their infringement of Plaintiff's copyright in the Photograph.

22. As a result of the wrongful conduct of Edelman Holdings as alleged herein, Plaintiff is entitled to recover from Edelman Holdings the damages, that he sustained and will sustain, and any gains, profits and advantages obtained by Edelman Holdings because of their violations of 17 U.S.C. § 1202, including attorney's fees and costs.

23. Alternatively, Plaintiff may elect to recover from Edelman Holdings statutory damages pursuant to 17 U.S.C. § 1203(c) (3) in a sum of at least \$2,500 up to \$25,000 for each violation of 17 U.S.C. § 1202.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Edelman Holdings be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Edelman Holdings be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
September 10, 2018

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